IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.12.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.1001 of 2007

Vijaya ... Petitioner

vs.

1. The Commissioner of Police,
Egmore, Chennai-8.

2. The Govt. of Tamil Nadu,
rep. by its Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

3. The Superintendent of
Central Prison, Puzhal,
Chennai-66. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records relating to the proceedings of the first respondent in No.115 of 2007 dated 24.3.2007 as against petitioner's son Rajesh, aged about 20 years, quash the same and direct the respondent herein to produce the detenu who has been detained under Act 14/1982 in Central Prison, Chennai, before court and set him at liberty.

For Petitioner : Mr.S.Panneer Selvan

For Respondents: Mr.N.R.Elango,
Additional Public Prosecutor.

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O R D E R

(Delivered by R.REGUPATHI, J.)

The petitioner herein challenges the impugned order of detention, dated 24.03.2007, whereby, her son has been detained as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest

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Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. The ground on which the detention order came to be passed is that on 25.02.2007 at about 10.15 A.M., one Pandiyamani, husband of complainant Ranganayagi, was returning to his house from Saloon along with his friend Sathiyanaraynan, at which time, the detenu and others, who had previous enmity with him, stood hiding near his residence and, on noticing him, rushed near him and indiscriminately attacked him with deadly weapons, as a result of which, he succumbed to the injuries. The public who were at the spot, seeing the atrocious activities of the detenu and others, started running to safer places fearing danger to their lives and properties and normalcy of the area was greatly affected. On receipt of the complaint, the Inspector of Police, H-8 Thiruvotriyur Police Station, registered a case in Cr. No.151 of 2007 for offences under Sections 147, 148, 341, 302, 336, 427 and 506 (2) IPC., took up investigation of the case and arrested the detenu on 25.02.2007. The Detaining Authority, taking note of one adverse case against the detenu and his activities prejudicial to the maintenance of public order, clamped the order of detention branding him as 'Goonda'.

3. Learned counsel for the petitioner submits that, in the grounds of detention in English, the Detaining Authority did not make mention of observation mahazar, but mentioned the same in the grounds of detention supplied to the detenu in the language known to him ie., in Tamil, however, copy of such document viz., observation mahazar, has not been furnished to the detenu; thus, he was prevented from making an effective representation. Hence, the ultimate order of detention may be quashed.

4. We carefully considered the above contention of the learned counsel for the petitioner. In the grounds of detention, the Detaining Authority has stated that the Inspector of Police, Law and Order, H.8 Thiruvotriyur Police Station, visited the spot and seized the plain earth and blood-stained earth under cover of mahazar and he also seized the broken bottle pieces scattered on the roadside under cover of mahazar. The detenu, not being conversant with English Language, was supplied with a copy of grounds of detention in the vernacular language, wherein, the above portion has been translated as here-under:-

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" எச்.8 திருவொற்றியூர் காவல் நிலைய சட்டம் மற்றும் ஒழுங்குப் பிரிவு, காவல் ஆய்வாளர் சம்பவ இடத்திற்கு சென்று பார்வை மகஜரை தயார் செய்தார். காவல் ஆய்வாளர் சம்பவ இடத்திலிருந்து சாதாரண மண் மற்றும் இரத்தந்தோய்ந்த மண் ஆகியவற்றை மகஜரின் கீழ்க் கைப்பற்றினார். காவல் ஆய்வாளர் மேலும், சாலையில் சிதறிக் கிடந்த உடைந்த பாட்டில் துண்டுகளை மகஜரின் கீழ் கைப்பற்றினார். "

Thus, in the grounds of detention in Tamil, the Detaining Authority had chosen to mention Observation Mahazar (பார்வை மகஜர்), which relates to the scene of occurrence. As rightly pointed out, first of all, there is no mentioning at all of the observation mahazar in the grounds of detention in English. Secondly, the detenu was not supplied with a copy of the document viz., observation mahazar, enabling him to submit an effective representation. In this view of the matter, we are of the view that the ultimate order of detention is liable to be quashed.

5. Consequently, the Habeas Corpus Petition is allowed and the order of detention is quashed the and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner of Police, Egmore, Chennai-8.

2. The Secretary, Prohibition and Excise Department, Fort St. George, Chennai-9.

3. The Superintendent of Central Prison, Puzhal, Chennai-66.

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4. The Joint Secretary
to the Government of Tamil Nadu,
Public (Law and Order) Department,
Fort St George, Chennai 9.

5. The Public Prosecutor,
High Court,
Madras.

ASM(CO)
SR/12.12.2007

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